

HOW TO FILE & SEND A MOTION & NOTICE OF COURT DATE FOR MOTION

Who can file a *Motion*?

Any person can file a motion who is involved in a court case and wants to see the judge to ask the judge to do something in the case. For example, you might file a motion to: schedule a new court date, ask for more time to move in an eviction, change an earlier order, or to explain why you missed court so you can ask for a new court date.

What forms do I need to fill out to file a *Motion*?

- **Motion:** use this form to explain what you want the judge to do and any reasons why the judge should say yes to your request.
- **Order:** is used by the judge to say if your *Motion* is granted or denied.
- **Proof of Delivery:** you may need this to show how you delivered a copy of the judge's *Order* to the parties or their lawyers.
- **Notice of Court Date for Motion:** use this form to schedule the court date when you will see the judge; this is called the hearing date. This form also:
 - lists the date, time, and place where you will see the judge;
 - lists the names and addresses of the other parties or the names and addresses of their lawyers; AND
 - lets the other parties in the case know about the court date.

Where can I find the forms I need?

You can find the forms at:

<http://www.illinoiscourts.gov/Forms/approved/>.

Are there any costs to file a *Motion*?

- Some motions require a filing fee but there are many motions where the filing is free.
- The Circuit Clerk will let you know if there is a fee for your *Motion*. Also, many courts have the court fees listed on their websites.
- If you cannot afford to pay the filing fee, you can ask the court to file for free. Fill out the *Application for Waiver of Court Fees* to ask the court for a fee waiver. This is a separate set of forms you can find at <http://www.illinoiscourts.gov/Forms/approved/>.

What do I do after I fill out my forms?

Step 1: File your forms with the Circuit Clerk in the county where the court case is filed.

- Make copies of your forms for yourself and each party in the case.
- Call the Circuit Clerk and ask how much it will cost to file your forms and the types of payment (cash, check, credit, online) they take.
- If you cannot afford the fee, fill out and file an *Application for Waiver of Court Fees* found at: <http://www.illinoiscourts.gov/Forms/approved/>. If you already have a fee waiver for this court case, you do not need do this.

- File your forms with the Circuit Clerk in person. You may be able to file by mail or online depending on the county where the court case is filed.
- The Circuit Clerk will stamp your forms. This stamp is your proof that the forms were filed with the court.
- How to File In Person
 - Go to the courthouse in the county where your court case is filed.
 - Give the Circuit Clerk your original forms and the copies to stamp.
 - The Circuit Clerk will keep the original forms and give back your copies.
 - Pay the filing fee or file your *Application for Waiver of Court Fees*.
- How to File By Mail
 - If you will be asking for a fee waiver, there may be local rules requiring you to file your *Application for Waiver of Court Fees* in person. Ask the Circuit Clerk if you have to file your *Application for Waiver of Court Fees* in person.
 - In Cook County, you must go in person to have your fees waived.
 - If you do not need to appear in person, mail your original forms including your *Application for Waiver of Court Fees* and one copy to the Circuit Clerk to stamp.
 - If you do not need to have your fees waived, mail your original forms and one copy to the Circuit Clerk to stamp.
 - Include the *Letter to the Circuit Clerk* found at: <http://www.illinoiscourts.gov/Forms/approved/>.
 - Include a self-addressed and stamped envelope for the Circuit Clerk to mail the file stamped copy to you.
- How to File Online
 - Check your local Circuit Clerk's website to see if online filing is an option for you at: <http://www.ilcourtclerks.org/illinois-court-clerks/>.
 - Follow the instructions for filing online provided by the Circuit Clerk.
 - Pay the filing fee as instructed online or file your *Application for Waiver of Court Fees*.
 - Even if you can file online, you may have to appear in person to apply for a fee waiver. Ask the Circuit Clerk if you have to file your *Application for Waiver of Court Fees* in person.

Step 2: Ask for a court date.

- Ask the Circuit Clerk if you have to schedule a court date or if one will be scheduled automatically.
- If you need to schedule the court date, ask the Circuit Clerk how to do so. The Circuit Clerk may schedule the court date or you may have to speak with other court staff.

- When you get your court date, ask if the court will send notice of the court date to the other party or if you need to.
- If you need to send notice, complete the *Notice of Court Date for Motion*.

Step 3: Send a copy of your forms to the other party.

- After filing, you must send a copy of your forms to each party in the case.
- If a party has a lawyer, send the copies to the lawyer.
- You may hand-deliver or mail your forms to the other parties. If they have agreed, you may email your forms. The *Notice of Court Date for Motion* must state the way you sent them.
- **NOTE:** There may be local rules about how many days before the court date you have to give notice to the other party. Ask the Circuit Clerk where to find these rules. Look for rules about motions and notice of hearing.
- Keep one copy of the forms that were stamped by the Circuit Clerk for your own records.

Step 4: Get ready for your court date.

- Decide and write down:
 - What you want to ask the judge to do for you;
 - What you will say to the judge if asked to tell your side of the case; AND
 - Questions you have for witnesses, if there are any.
- Gather and make copies of pictures and documents you want the judge to see. Bring the original for the judge and one copy for you and each of the people in the case.
- If you want the judge to hear from other people, those people will have to come to court and be witnesses (in most cases, you cannot bring in written statements of witnesses).
- If the judge needs to think about it more, the judge may let you know the decision later by mailing a court order or at another court date.
- If the judge has enough information, the judge may decide right then and fill out a court order.
 - Get a copy of the order that has the court stamp on it.
 - If the other party was not in court to get a copy, you must send them a copy by 5:00 p.m. on the date you get the order. Fill out and file a *Proof of Delivery* court form with the Circuit Clerk to show that you sent the copy.

Step 5: Go to your court date.

- Bring these items with you to court:
 - Photo I.D.;
 - Copies of all the documents you filed with the Circuit Clerk;
 - Copy of your *Order*; and
 - Other papers or proof related to your *Motion*.

- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your forms do not have a courtroom number look for a list of cases at the courthouse or ask the Circuit Clerk.
- Check in with the courtroom staff and wait for your name and case number to be called.
- When your case is called, walk to the judge and introduce yourself.

How do I present my case to the judge and what happens after?

Step 1: Tell the judge your side of the case and answer questions.

- Show evidence including documents and photos.
 - Give a copy to the judge and a copy to the other party. Be prepared to explain why the document or photo is important.
- Question witnesses.
 - Tell the judge the name of your witnesses.
 - Ask the witnesses questions you prepared in advance.
 - The judge and the other party can ask questions of your witnesses when you are done.
- The judge decides whether the documents, photos, or witness testimony can be considered in making a decision about your case.

Step 2: The other party presents their case.

- The other party will also get to present their case by testifying, giving the judge evidence, and questioning witnesses.
- You will get to see any documents and photos the other party brings to court. If you do not think the judge should consider them in making a decision about your case, tell the judge why.
- You may ask questions of the other party's witnesses. Write down your questions while they are speaking to the other party or judge.

Step 3: The judge makes a decision after both sides present their case.

- The judge has to make a decision. The decision is called a court order.
- If the judge needs more information to make a decision, the judge may set up another court date. Make sure you understand what information is needed and get it before the new court date.